

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 7275 OF 1988****For Approval and Signature:****HONOURABLE MR.JUSTICE R.S.GARG**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of
the judgment ?

4 Whether this case involves a substantial question of
law as to the interpretation of the Constitution of
India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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CHANDRAMANI WIDOW OF LALIT- KUMAR B.PATEL - Petitioner(s)**Versus****UNION OF INDIA - Respondent(s)**

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Appearance :

Mr. D.F. Amin for Petitioner(s).

None for Respondents though the name of Mr. Jitendra Malkan appears.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG**Date : 13/03/2007****ORAL JUDGMENT**

Shri D.F. Amin, learned Counsel for the petitioners. None for
the respondent though the name of Mr. Jitendra Malkan appears.

2. Present is a petition by a freedom fighter, who had fought for the freedom of the country. In accordance with some Scheme floated by the Central Government, he made an application for award of the freedom fighter's pension. The application came to be rejected on 27th April, 1987 for the following reasons:

- (a) The application was incomplete.
- (b) The application was time barred (it was received after the due date).
- (c) He had applied for pension in terms of the Ministry's Press Notification of 29th April, 1985, which was for those fighters, who had applied in time claiming underground sufferings, but, their cases were rejected for want of acceptable documentary evidences.

2.1 The order passed by the Under Secretary to the Government of India says that the petitioner's claim does not fall in the category of those who had suffered while they were underground.

3. Shri Amin, learned Counsel for the petitioner, submits that if the Government had true intentions and had floated the scheme with a laudable object to provide some succour and solace to those who had fought for the country, then, these technicalities should not come in the way of the petitioner, who in the eve of his life is seeking some benefit from the Central Government. He has also placed his reliance on a judgement of the Supreme Court in the matter of ***Mukund Lal Bhandari & Ors. vs. Union of India & Ors.***, [1993 Supp (3) SCC 2], In the said matter, the Supreme Court has observed as under:

“7. As regards the contention that the petitioners had filed their applications after the date prescribed in that behalf, we are afraid that the Government stand is not justifiable. It is

common knowledge that those who participated in the freedom struggle either at the national level or in the erstwhile Nizam State, are scattered all over the country and most of them may even be inhabiting the remotest parts of the rural areas. What is more, almost all of them must have now grown pretty old, if they are alive. Where the freedom fighters are not alive and their widows and the unmarried daughters have to prefer claims, the position may still be worse with regard to their knowledge of the prescribed date. What is more, if the Scheme has been introduced with the genuine desire to assist and honour those who had given the best part of their life for the country, it ill behoves the Government to raise pleas of limitation against such claims. In fact, the Government, if it is possible for them to do so, should find out the freedom fighters or their dependents and approach them with the pension instead of requiring them to make applications for the same. That would be the true spirit of working out such Schemes. The Scheme has rightly been renamed in 1985 as the Swatantra Sainik Samman Pension Scheme to accord with its object. We, therefore, cannot countenance the plea of the Government that the claimants would only be entitled to the benefit of the Scheme if they made applications before a particular date notwithstanding that in fact they had suffered the imprisonment and made the sacrifices and were thus otherwise qualified to receive the benefit. We are, therefore, of the view that whatever the date on which the claimants make the applications, the benefit should be made available to them. The date proscribed in any past or future notice inviting the claims, should be regarded more as a matter of administrative

convenience than as a rigid time-limit.”

4. In view of the aforesaid observations made by the Supreme Court and the law so settled, I am of the view that the order dated 27th April, 1987 deserves to be quashed. It is, accordingly, quashed. The matter is remitted to the Union of India, which shall after appropriate notice to the petitioner and after hearing him, decide the matter afresh in accordance with the judgement aforequoted. The petitioner, if desires, may appear before the Under Secretary to the Government of India (Ministry of Home Affairs) along with a copy of this order to apprise the said Authority that they are required to re-decide the matter.

5. In the result, the petition is allowed. Rule is made absolute. No costs.

[R.S.Garg, J.]

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